

STATE OF TENNESSEE

Office of the Attorney General



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Reply to:
Consumer Advocate and Protection Division
Post Office Box 20207
Nashville, TN 37202

June 26, 2003

Honorable Sara Kyle
Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

RE: In Re: Petition of Tennessee American Water Company to Change and Increase Certain Rates and Charges So As to Permit it to Earn a Fair and Adequate Rate of Return on Its Property Used and Useful in Furnishing Water Service to Its Customers
Docket No. 03-00118

Dear Chairman Kyle:

Enclosed is an original and thirteen copies of ATTORNEY GENERAL'S Reply to TENNESSEE AMERICAN WATER COMPANY'S Response to the Attorney General's Motion to Strike and Exclude the Testimony of Chris Klein. Copies are being sent to all parties of record. If you have any questions, kindly contact me at (615) 532-3382. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Vance Broemel".

Vance Broemel
Assistant Attorney General

Enclosures
cc: All Parties

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**IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

**PETITION OF TENNESSEE AMERICAN
WATER COMPANY TO CHANGE AND
INCREASE CERTAIN RATES AND
CHARGES SO AS TO PERMIT IT TO EARN A
FAIR AND ADEQUATE RATE OF RETURN
ON ITS PROPERTY USED AND USEFUL IN
FURNISHING WATER SERVICE TO ITS
CUSTOMERS**

DOCKET NO. 03-00118

**ATTORNEY GENERAL'S REPLY TO TENNESSEE AMERICAN WATER
COMPANY'S RESPONSE TO ATTORNEY GENERAL'S MOTION TO STRIKE
AND EXCLUDE THE TESTIMONY OF CHRIS KLEIN**

Comes Paul G. Summers, the Attorney General & Reporter, through the Consumer Advocate and Protection Division of the Office of Attorney General (hereinafter "Attorney General") and hereby replies to Tennessee American's Response to the Motion to Strike and Exclude the Testimony of Chris Klein.

First, Tennessee American argues that Tennessee American gave the Attorney General "notice" that Chris Klein might be a witness. Vaguely mentioning that someone might be a witness is entirely different from informing the party in writing of the scope and nature of the testimony, and providing information as to other testimony, as requested in the Attorney General's interrogatory.

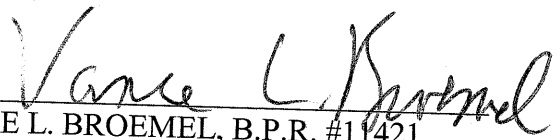
Second, Tennessee American seems to be arguing that merely by not "deciding on" or "finalizing" the choice of witness until the day rebuttal testimony is due it can avoid making known its use of a witness. This is manifestly unfair and obviously invites parties to use rebuttal

witnesses as weapons in a trial by ambush.

Finally, since Tennessee American has chosen to reveal the testimony of Chris Klein at the last moment, the Attorney General, and the other parties, are left without knowing answers to such important questions as: Has Chris Klein testified or participated in other cases involving Tennessee American (a review of recently filed discovery responses reveals that he has, but we now have no time to fully review his testimony)? Did he participate in review of or advise or influence the TRA regarding the settlement agreement between the City of Chattanooga and Tennessee American in which Tennessee American reduced rates to the City by some \$1.1 million per year? Simply knowing that someone worked at the TRA is completely different from having the specific knowledge needed to cross-examine someone.

Because the Attorney General has not been able to fully explore the background of Chris Klein, and for the other reasons set forth in its Motion to Strike, the TRA should strike and exclude his testimony.

RESPECTFULLY SUBMITTED,


VANCE L. BROEMEL, B.P.R. #11421
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Consumer Advocate and Protection Division
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Consumer Advocate and Protection Division
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Dated: June 26, 2003

CERTIFICATE OF SERVICE


I hereby certify that a true and exact copy of the foregoing has been forwarded by facsimile and/or first-class mail, postage prepaid, to the following:

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